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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,085	10/15/2003	Michael D. Kotzin	CS21978RA/10-178	7269

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EXAMINER
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HAROLD, JEFFEREY F

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/686,085

Applicant(s)

KOTZIN, MICHAEL D.

Examiner

Jefferey F. Harold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 11, 12, 17 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7-10, 13-16, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                                                   |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The references listed in the Information Disclosure Statement submitted on October 15, 2003 and November 17, 2003 have been considered by the examiner (see attached PTO-1449).

### *Claim Rejections - 35 USC § 102*

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1, 12, 17 and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by Seligmann (United States Patent Publication 2004/0066932).

Regarding **claim 1**, Seligmann discloses intelligent multimode message alerts. In addition Seligmann discloses a communication apparatus comprising: a controller (processor 220); a receiver coupled to the controller (210), an alert device that is coupled to the controller (210), wherein the alert device alerts a user that the receiver has received a communication, and the alert device (transducer 225-1 – 225-n) has a plurality of operating modes, wherein vibration alert and acoustical alert read on claimed “plurality of operating modes”; and a biometric monitoring device (physiological sensors 260), which is coupled to the controller, the biometric monitoring device configured to sense a biometric characteristic (blood pressure, heart rate, body temperature, and brain activity) of the user, wherein the controller selects (task 840) one of the operating

modes of the alert device based on a biometric characteristic of the user, as disclosed at paragraphs [0022], [0023], [0037] – [0053] and exhibited in figures 4, 7, and 8.

Regarding **claim 12**, it is interpreted and thus rejected for the reasons set forth above in the rejection of claim 1.

Regarding **claim 17**, Seligmann discloses everything claimed as applied above (see claim 12), in addition Seligmann discloses wirelessly transmitting signals that represent the biometric characteristic of the user from a remote biometric monitoring device to the communication device, as disclosed at paragraph [0037] – [0053].

Regarding **claim 20**, Seligmann discloses everything claimed as applied above (see claim 12), in addition Seligmann discloses wherein the communication device is a wireless communication device and the method includes receiving a wireless communication, as disclosed at paragraph [0025] and exhibited in figure 4.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 6 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Seligmann in view of Beigel et al. (United States Patent Application Publication 2003/0174049), hereinafter referenced as Beigel.

Regarding **claim 6**, Seligmann discloses a communication device comprising: a controller, an alert device that is coupled to the controller, wherein the alert device alerts a user to an incoming message, and the alert device has a plurality of operating modes, a receiver for receiving signals that represent a biometric characteristic of a user, the controller selects one of the operating modes of the alert device based on the biometric characteristic of the user, however, Seligmann fails to disclose a short range receiver coupled to the controller, wherein the short range receiver receives signals that represent a biometric characteristic of the user. However, the examiner maintains that it was well known in the art to provide a short range receiver coupled to the controller, wherein the short range receiver receives signals that represent a biometric characteristic of the user, as taught by Beigel.

In a similar field of endeavor Beigel discloses a wearable identification appliance that communicates with a wireless communication network such as Bluetooth. In addition, Beigel discloses an identifier appliance (100) with a biometric sensor incorporated to monitor or detect the wearer's pulse rate, heart electrical signals, blood pressure, insulin levels, where such biometric data may be transmitted to other devices constantly, intermittently, or upon alert conditions. Further, antenna (148) and bluetooth master device (144) receive short range signal, which read on claimed "short range receiver", wherein the signal are biometric data and is coupled to controller (142), as disclosed at paragraph [0045] and exhibited in figures 2 and 3.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seligmann by specifically providing a short range

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receiver coupled to the controller, wherein the short range receiver receives signals that represent a biometric characteristic of the user, as taught by Beigel, for the purpose of allowing medical staff to monitor biometric data of the users while the user and the medical staff are at different locations.

Regarding **claim 11**, it is interpreted and thus rejected for the reasons set forth above in the rejection of claim 6.

***Allowable Subject Matter***

4. ***Claims 2-5, 7-10, 13-16, 18 and 19*** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F. Harold whose telephone number is 571-272-7519. The examiner can normally be reached on Monday - Friday 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing F. Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jefferey F Harold  
Primary Examiner  
Art Unit 2614



JFH  
May 4, 2006